

REMARKS/ARGUMENTS

With this amendment, claims 5, 7, 9-11, 13-18, 20-28, 30, 34 and 36-57 are pending. Claim 35 is cancelled without prejudice to subsequent revival. New claims 42-55 are added. Applicants thank Examiner Kruse for participating in an interview with Applicants' representative, Matthew Hinsch on February 25, 2004. During that interview, the content of a Rule 1.132 declaration and the written description and enablement rejections were discussed. For convenience, the Examiner's rejections are addressed in the order presented in a November 18, 2003, Office Action.

I. Status of the claims

Claims 5, 13, and 20 are amended to recite a polypeptide at least 95% identical to SEQ ID NO:2. Support for this amendment is found throughout the specification, for example at page 12, lines 6-7. These amendments add no new matter.

Claim 34 is amended to recite a polynucleotide that comprises at least 200 contiguous nucleotides from position 2765 to 3361 of SEQ ID NO:1. Support for this amendment is found throughout the specification, for example at page 3, lines 28-29; at page 9, lines 12-19 and at page 14, lines 1-5. This amendment adds no new matter.

New claims 42, 43, 56, and 57 are added and are directed to a plant the comprises the expression cassette of claim 34. Support for this amendment is found throughout the specification, for example at page 30, line 26 through page 32, line 34. Support for a Brassica plant is found, *e.g.*, at page 32, lines 18-26. These amendments add no new matter.

New claims 44-54 are directed toward a method of delaying fruit dehiscence in a plant, by introducing an expression cassette comprising a heterologous promoter operably linked to a polynucleotide or complement thereof, wherein the polynucleotide comprises at least 200 contiguous nucleotides from position 2765 to 3361 of SEQ ID NO:1. Support for this amendment is found throughout the specification, for example at page 4, lines 19-20; at page 9, lines 12-19; at page 14, lines 1-5 and original claim 22. Support for a constitutive promoter is found, *e.g.*, at page 23, line 12 through page 24, line 23. Support for a tissue specific promoter is

found, *e.g.*, at page 26, line 3 through page 30, line 24. Support for a dehiscence zone specific promoter is found, *e.g.*, at page 26, line 15 through page 28, line 25. Support for a Brassica plant is found, *e.g.*, at page 32, lines 18-26. Support for reduction of lignification in valve margin cells is found, *e.g.*, at page 4, lines 26-27 and original claim 27. Support for using Agrobacterium to introduce the expression cassette into the plant is found, *e.g.*, at page 4, lines 30-31 and original claim 30. These amendments add no new matter.

Claims 14-16 and 24-26 are amended to correct grammatical errors. These amendments add no new matter.

II. Rejections under 35 U.S.C. §112, first paragraph, written description

Claims 20, 24-28, 30, 34-40 and 41 are rejected under 35 U.S.C. §112, first paragraph as allegedly containing subject matter that was not described in specification.

To the extent the rejection applies to the claims as amended, Applicants respectfully traverse the rejection. It is Applicants' understanding, in view of the Examiner interview on February 25, 2004, that the amended claims are in condition for allowance. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. §112, first paragraph, written description be withdrawn.

III. Rejections under 35 U.S.C. §112, first paragraph, enablement

Claims 20, 24-28, 30, 34-40 and 41 are rejected under 35 U.S.C. §112, first paragraph because the specification allegedly does not provide enablement for one of skill to make and use the invention.

To the extent the rejection applies to the claims as amended, Applicants respectfully traverse the rejection. It is Applicants' understanding, in view of the Examiner interview on March 22, 2004, that the amended claims are in condition for allowance. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. §112, first paragraph, enablement be withdrawn.

Appl. No. 09/548,971
Amdt. dated [insert date]
Reply to Office Action of November 18, 2003

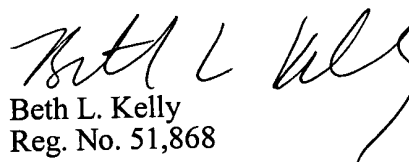
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


Beth L. Kelly
Reg. No. 51,868

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
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